

Both Sides of Debate

NEW LAW TO GUARD NATIONAL SECRETS?

"Leakage of Secrets
Poses a Great Danger"

USNSWR

Interview With
William E. ColbyDirector,
Central Intelligence
Agency

Q Mr. Colby, in your view, is a new law needed to protect official secrets in this country?

A Yes. We need a new law because the present legislation is inadequate to protect our intelligence activities. The present law applies essentially only to people who turn secrets over to a foreign power with intent to injure the United States. It does not apply to employees or former employees of the Central Intelligence Agency who deliberately leak to the press the names of intelligence agents or information concerning some very sensitive technical system that we operate.

Q Is that a serious problem for you?

A Yes. A former CIA official is publishing a book here that names every individual, foreign and American, with whom he worked while he was employed by the Agency. He obviously includes in that list the names of many of our officers, many people who worked with us in foreign intelligence services, and many private foreign citizens who worked with us at various times. As a result, some of these people have been exposed to possible legal action in their own countries. Others have been exposed to terrorist action.

Q And there's nothing you can do about it?

A The CIA attorneys tell me there's practically nothing I can do about it—certainly nothing as far as criminal prosecution is concerned—even though all of us at the Agency signed secrecy agreements as a condition of employment and as a condition of getting access to sensitive material.

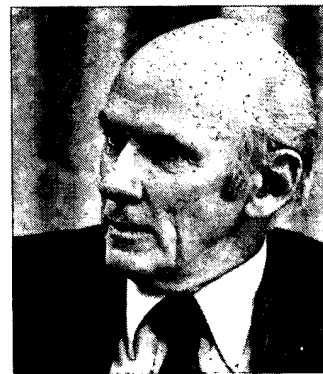
Unlike a number of other Government departments, there is no law which the Justice Department may utilize to bring criminal proceedings against an employee or former employee of the CIA who merely reveals our sensitive material.

Q Do you mean that the CIA has even less power to protect secrets than ordinary Government departments?

A Very much so. An Internal Revenue Service employee who reveals your income-tax return without proper authorization can be prosecuted. A member of the Department of Agriculture who releases cotton statistics to some friend is guilty of a crime. A member of the Census Bureau who reveals an individual census return commits a crime.

Q The CIA has been operating for 28 years. Why has this problem suddenly become so acute as to require a new law?

A The main reason stems from the various investigations
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"We Already Have More
Protection Than We Need"

USNSWR

Interview With
Senator
Alan CranstonDemocrat,
Of California

Q Senator Cranston, why are you opposed to a new law that would provide additional protection for official secrets?

A I believe that we already have more protection for official secrets than we need. My main concern is that classification of information by the Government is out of control. Too many different people have authority to classify—and they often do it with excessive zeal to protect themselves and people higher up. They often seem more interested in job security than in national security. Not long ago someone with direct experience testified that more than 99 per cent of classified material should not be treated that way.

We would open up a very dangerous situation if we started to write laws that anybody who transmits or receives any classified information without proper authority is guilty of a crime.

Q What should be done to protect Government agencies against wholesale leaking of secret documents?

A I'm more concerned about the need for protecting reporters and the free flow of information to the public than I am about the need for protecting Government agencies. I think that we need a shield law to exempt reporters from prosecution for refusing to reveal their sources.

A great deal of the information that the American public gets about what its Government is up to does not come out in formal press releases. It comes from digging by the press and from leaks by officials who think the Government is doing improper things. If you close that off, you would threaten the free press and the ability of the people in this democracy to know what is going on.

Q Do you consider the leaking of official secrets desirable?

A Yes—if the official secret is information that the Government is improperly hiding from the public and which the public has a right to know. That is a very important part of democracy.

A free press is an essential restraint on government; it is basic to our constitutional concept of a government of limited powers. I think the Founding Fathers had a very acute understanding of that when they wrote the First Amendment. They were more concerned about protecting people against the abuses of government than enabling the government to do things for people—or to people.

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Interview With CIA Director Colby

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now going on. In these investigations we are taking an overall look at our intelligence system in order to update the old image. In the process, the amount of leakage of sensitive secrets poses a great danger to running an effective intelligence service in the future.

Q In what way have these leaks damaged your intelligence operations?

A A number of countermeasures have been taken by other countries because they learned of certain activities of ours. These countries have been able to frustrate our continued access to that particular form of information.

We're in a situation where we are losing agents. There's no question about it. And I am sure there are situations in which a number of foreign intelligence agencies have considered whether to give us a particularly delicate item, and they've said: "Well, these days, no. It might leak." We are developing a reputation in other intelligence services of not being able to keep secrets in this country.

Q Isn't there a danger that a new law to protect intelligence secrets might be used to cover wrongdoings by CIA?

A I think we are going to eliminate the potential of cover-ups in several ways as a result of the investigations now going on. Looking ahead, I think we are going to have clearer lines of direction of the CIA and much better supervision within the executive branch and by Congress. The better the external supervision, the better the internal supervision. This will tighten up everything and would prevent the use of new legislation for anything other than a good reason.

Moreover, I think we've had a rather rich lesson in the last couple of years of the dangers of trying to cover things up. In a big Government bureaucracy you really can't cover up, because somebody always writes a memorandum or leaves the service and tells about it, and an enterprising reporter finds out about it.

Q Who would determine what are real intelligence secrets that require legal protection—the CIA itself?

A No. I would have no problem in demonstrating to a judge in chambers, if necessary, that any case brought under a new law involved a sensitive intelligence matter and was not an arbitrary or capricious prosecution. Only after a judge had established that fact would the case go to trial—in public. That would determine whether the defendant was guilty of communicating the secrets illegally. The secrets themselves would not be exposed in open court.

EXEMPTING PRESS FROM PROSECUTION—

Q In your view, should the press be held liable for publishing intelligence secrets?

A I don't believe that I should be able to prosecute a newsman who picks up something and then publishes it, and the new law I proposed would prohibit such a prosecution. I do think the individual within the system who gave it to him should be punished, however. I am not in favor of the sort of Official Secrets Act that Great Britain has, which makes it a crime for anyone to release secrets—whether officials or newsmen.

Q What are your chances of getting the kind of legislation that you advocate to protect secrets?

A Well, if I were asking for this legislation on my own and in isolation, I admit the chances would not be good in the present climate. But in the process of taking a fresh look at our intelligence structure as a whole, we Americans cannot responsibly consider how to run an intelligence organization without resolving this problem of how to keep a few American secrets.

Interview With Senator Cranston

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Of course, there are areas where I am very strongly opposed to the revelation of classified information. But I want to be certain that the information is properly classified.

Q How would you do that?

A Well, it's necessary to define very precisely the categories of information that are really vital defense secrets. In my opinion, these would be limited to cryptographic information, plans for military-combat operations, information regarding the actual method of operation of certain weapons systems, and restricted atomic data. The disclosure of information in these categories obviously would be very damaging to the United States and should be against the law.

There are other areas of information involving national defense where disclosure would not necessarily be damaging—for example, cost overruns on weapons development. I think it would be proper for somebody to blow the whistle on that if he were aware of abuses. In this category of information, we need the tightest possible definition of what can be classified as secret. Also, we must take into account the intent of anyone who reveals this sort of information.

I am absolutely opposed to any catchall phrase—like national security—to cover information that should be classified as secret. We've learned in the Watergate and other scandals that the term "national security" is subject to the broadest possible stretching to cover up wrongdoings.

"CIA HAS HAD TOO MUCH POWER"—

Q What about the CIA? Is additional legislation needed to prevent officials or former officials of that Agency from revealing names of agents and similar secrets?

A The CIA should have adequate protection, but we have to think out very thoroughly precisely what that protection should be. I think the naming of agents is improper. But if an agent acts in violation of the law, that's something else again. In a case of that sort, it's a matter of individual judgment whether or not it should be made public.

Basically, it's my view that the CIA has had too much power—and this has led to a lot of abuse. You can't really draw a distinction between the use of power by the CIA to protect sensitive information and the use of that same power to do almost anything they choose and then cover it up. We certainly need more control over the intelligence agencies—and that control must include a greater ability by Congress to decide what should and should not be classified as secret.

Q The news media have revealed a number of intelligence operations—such as the salvaging of a sunken Russian submarine and interception of telephone conversations between Soviet leaders and the Kremlin. Should the press be liable for compromising such espionage operations?

A No. I would leave the decision whether or not to publish to the professional judgment of the press. I don't think that you can start writing definitions of information that it is illegal for the press to publish, without making governmental restrictions on the availability of information subject to vast abuses.

Q Is it possible to operate an effective intelligence organization in this country in those circumstances?

A Yes. We obviously need an intelligence community, but we don't want to subvert what we are supposed to be protecting—which is our fundamental democracy—by giving Government agents power that is too sweeping.

Basically, I believe that because Government is getting bigger and bigger and ever more powerful, we have to be very much on guard against giving it authority and secret power without proper, constitutional restraints.